

COMBINED DECLARATION & POWER OF ATTORNEY - U.S.A Application

As a below named inventor, I hereby declare that:

My residence post office address and citizenship are as stated below next to my name.

I believe I am the original first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **RELEASABLY-SECURABLE ONE-PIECE ADJUSTABLE GASTRIC BAND**, the specification of which

(check one) is attached hereto
 was filed on **July 21, 2006** as US Application Serial Number **10/587,099**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the U.S. Patent & Trademark Office all information known to me to be material to patentability as defined in 37 CFR, § 1.56. I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

| (Number) | (Country) | (Day/Month/Year Filed) |
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I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

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| <u>60/538,595</u> (Application Number) | <u>January 23, 2004</u> (Filing Date) |
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I hereby claim the benefit under 35 U.S.C. §§ 120 of any United States application(s), or 365(c) of any PCT International application designation the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR §. 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

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| <u>PCT/US 2005/001620</u> (Application Number) | <u>January 21, 2005</u> (Filing Date) | <u>Pending</u> (Status -patented, pending, abandoned) |
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I hereby appoint the attorneys and agents associated with **Customer Number 051957** to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, with full power to appoint associate attorneys:

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

| FIRST | M.I. | LAST | CITIZENSHIP |
|--|--|-------------|--------------------|
| Janel | A. | Birk | USA |
| <i>Residence/ Post Office Address:</i> | 1110 Nightingale Place Oxnard, CA 93036 | | |


Signature

12/3/08
Date: